

Black Asks Dismissal Of Tax Case

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Cites Bugging;
Baker Wins Trial
Delay Till 1967

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Fred B. Black Jr. yesterday asked for Supreme Court review of his tax conviction on grounds that he was caught in the same FBI eavesdropping net that figures in the Bobby Baker tax fraud case.

At the same time it was learned yesterday that both the Government and counsel for former Senate Majority Secretary Baker have agreed to a postponement of Baker's trial from next October to Jan. 9, 1967—well beyond the fall elections.

While there is no immediate connection between the two criminal tax cases, Black was a business associate of Baker's in a lucrative California vending concern and other ventures.

First Petition Denied

Black's first petition for review was denied May 2. But he said that Solicitor General Thurgood Marshall's admission Tuesday that agents bugged Black's Sheraton-Carlton suite three years ago should convince the Court that immediate, outright dismissal of the entire prosecution is required.

Marshall volunteered the admission that agents, conducting an "unrelated" and unidentified investigation, overheard conversations between Black and his lawyer both before and after his indictment.

But Marshall said Government lawyers knew nothing about the bugging. He offered to show at a District Court hearing that no leads or evidence against Black came from any improper source.

Comment Declined

Justice Department spokes-

men continued to decline comment on Black's suggestion that the bugging of his suite was part of the same investigation that Baker complained about in pretrial motions filed last month.

Agents are known to have been investigating gambling and racketeering based in Las Vegas. The Government has until June 24 to answer Baker's motion.

Attached to the petition for rehearing were copies of affidavits by Black and Clifford

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Jones, former lieutenant governor of Nevada. Jones is under indictment for perjury before the grand jury that investigated Baker and is named as a co-conspirator in the Baker indictment.

Black swore that he was a friend of Jones and was introduced by Jones to Edward Levinson, a Nevada gambling figure, in 1961. He said that during the past six years he had visited both men frequently and discussed his tax problems with them, often using their telephones to call his Washington lawyers.

Hans A. Nathan, Black's attorney, told the Court that the eavesdropping constituted a flagrant invasion of the lawyer-client relationship. He said the invasion had denied Black a fair trial and insured that he could not get a fair trial in the future.

Outright dismissal of a prosecution at the Supreme Court level would be an unprecedented step by the Court and is not considered likely.

Black has been sentenced to a prison term of 15 months to four years and \$10,000 fine.

Argument Raised

Nathan again raised the argument that Black's case had been prejudiced by newspaper publicity linking him with Baker, the principal point in the initial petition already rejected by the Court.

The press conference con-

tinues to link the two men, Nathan said. Ironically, yesterday's petition by Black itself connected the two men as victims of the same eavesdropping network.

Black, a public relations man specializing in connecting clients to Government contracts, was convicted of evading \$91,000 in taxes from 1956 to 1958. Baker is accused of attempting to evade \$23,090 in taxes for 1961 and 1962, stealing \$100,000 from three Los Angeles savings and loan firms and conspiring to defraud the Internal Revenue Service.

The agreement by prosecution and defense to postpone Baker's trial has yet to be approved or disapproved by District Court Judge Oliver Gasch. The trial has been set for October, an awkward time for the Johnson Administration in view of crucial congressional elections the following month. Black's petition cited a Louis Harris survey showing that the publicity during the Baker case as the greatest single factor adversely affecting President Johnson's 1964 campaign.

In jointly asking for the postponement the Government agreed with Baker's lawyer, Edward Bennett Williams, that no further pretrial motions would be filed and the defense would not ask to transfer the trial to another jurisdiction.

The stipulation points out that postponement might be inevitable because it could take all summer to dispose of motions already on file.